

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA,

v.

22-CR-109-LJV

PAYTON GENDRON,

Defendant.

SPEEDY TRIAL ORDER
(2/2/2024 through 9/8/2025)

On February 2, 2024, the parties appeared before the Court for oral argument on the defense motion for a protective order prohibiting the government from obtaining the defendant's pre-trial detention records, *see* Docket No. 15, and a status conference. Assistant United States Attorneys Joseph M. Tripi and Brett A. Harvey, and Department of Justice Capital Case Section Trial Attorney Michael S. Warbel, appeared on behalf of the government. The defendant appeared through his attorneys—Assistant Federal Public Defenders Sonya A. Zoghlin, MaryBeth Covert, and Anne M. Burger, and attorney Julie Clare Brain—who waived the defendant's appearance.

During the appearance, the Court heard oral argument on the defense motion for a protective order and set a further briefing schedule on the issue. After hearing from the parties regarding a pre-trial scheduling order and trial date, the Court set September 8, 2025, for the commencement of jury selection and trial. In addition, the Court issued a scheduling order for the parties to litigate various pre-trial matters, including discovery motions, the defendant's pre-trial motions, motions relating to the death penalty, motion for change of

venue, motions relating to victim impact statements, motions to dismiss, issues relating to jury selection, and issues relating to notice of expert evidence of a mental condition under FED. R. CR. P. 12.2. *See* Docket Nos. 135 and 141.

After a motion by the government and with the consent of defense counsel, the Court excluded the speedy trial time in this action from and including February 2, 2024, through and including September 8, 2025, as being in the interest of justice and not contrary to the interests of the public and the defendant in a speedy trial pursuant to Title 18, United States Code, Sections 3161(h)(7)(A) and 3161(h)(7)(B)(iv). Additionally, the defendant's motion for a protective order prohibiting the government from obtaining the defendant's pre-trial detention records and motion for access to records pursuant to the Jury Selection and Service Act remain pending, thereby automatically excluding the time from the Speedy Trial Act pursuant to Title 18, United States Code, Section 3161(h)(1)(D). *See* Docket Nos. 10 and 15.

Specifically, and for the reasons set forth above, the Court determines that the defendant's and the public's interest in a speedy trial is outweighed by the defendant's interest in having adequate time to prepare and litigate various pre-trial motions, and to prepare effectively for trial. Additionally, providing the defendant, whose charges expose him to the death penalty, with effective assistance of counsel outweighs the public's interest in a speedy trial. Furthermore, the defendant's interests in enabling sufficient time for his defense counsel to continue to review voluminous discovery materials and securing the effective assistance of counsel outweighs the interest of the defendant in a speedy trial.

NOW, it is hereby

ORDERED, for the reasons set forth above, that this case is hereby adjourned until further order of the Court; and it is further

ORDERED that the time in this action from and including February 2, 2024, to and including September 8, 2025, is properly excluded from the time within which trial must commence, in accordance with the Speedy Trial Act, pursuant to Title 18, United States Code, Sections 3161(h)(1)(D), 3161(h)(7)(A), and 3161(h)(7)(B)(iv).

The Court further finds that, as of February 2, 2024, zero (0) days of Speedy Trial Act time will have elapsed in this action and 70 days remain in the period within which trial must commence.

for April 4
DATED: Buffalo, New York, ~~February~~ _____, 2024.



HONORABLE LAWRENCE J. VILARDO
United States District Judge